

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0066-AIR-E TCEQ ID: RN102304086 CASE NO.: 35195
RESPONDENT NAME: Ysleta Independent School District

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Ysleta ISD, 7944 Yermoland Drive, El Paso, El Paso County</p> <p>TYPE OF OPERATION: Gasoline dispensing station</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 7, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney/SEP Coordinator: None</p> <p>TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171</p> <p>Respondent: Mr. Santiago N. Loreda, Associate Superintendent, Ysleta ISD, 7944 Yermoland Drive, El Paso, Texas 79907 Mr. Arturo Villanueva, Receiving Foreman, Ysleta ISD, 7944 Yermoland Drive, El Paso, Texas 79907</p> <p>Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 11, 2007</p> <p>Date of NOE Relating to this Case: December 6, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to comply with the minimum oxygen content of 2.7% by weight of gasoline during the control period of October 1 through March 31. Specifically, the unleaded sample collected from the North Tank pump no. 6 was found to be 2.3% oxygen by weight [30 TEX. ADMIN. CODE § 114.100(a) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$1,140</p> <p>Total Deferred: \$228 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$912</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on January 8, 2008, test samples indicated that the Respondent's gasoline was in compliance with the minimum oxygen requirement.</p>

Additional ID No(s): EE1018R



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	10-Dec-2007	Screening	8-Jan-2008	EPA Due	
	PCW	9-Jan-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Ysleta Independent School District		
Reg. Ent. Ref. No.	RN102304086		
Facility/Site Region	6-EI Paso	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35195	No. of Violations	1
Docket No.	2008-0066-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Miriam Hall
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	24% Enhancement	Subtotals 2, 3, & 7	\$240
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Notes	The penalty was enhanced by one 1660 order and two NOV's.
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Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply	10% Reduction	Subtotal 5	\$100
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes	The Respondent came into compliance on January 8, 2008. The NOE was issued on December 6, 2007.
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Total EB Amounts	\$4	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$300	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,140
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$1,140
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,140
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DEFERRAL	20%	Reduction	Adjustment	-\$228
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$912
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Screening Date 8-Jan-2008

Docket No. 2008-0066-AIR-E

PCW

Respondent Ysleta Independent School District

Policy Revision 2 (September 2002)

Case ID No. 35195

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102304086

Media [Statute] Air

Enf. Coordinator Miriam Hall

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 24%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The penalty was enhanced by one 1660 order and two NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 24%

Screening Date 8-Jan-2008

Docket No. 2008-0066-AIR-E

PCW

Respondent Ysleta Independent School District

Policy Revision 2 (September 2002)

Case ID No. 35195

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102304086

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 114.100(a) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the minimum oxygen content of 2.7% by weight of gasoline during the control period of October 1 through March 31, as documented during an investigation on October 11, 2007. Specifically, the unleaded sample collected from the North Tank pump no. 6 was found to be 2.3% oxygen by weight.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

90

Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended for the period of October 11, 2007 to January 8, 2008 (the test date showing compliance).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,140

This violation Final Assessed Penalty (adjusted for limits) \$1,140

Economic Benefit Worksheet

Respondent Ysleta Independent School District
Case ID No. 35195
Reg. Ent. Reference No. RN102304086
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$300	11-Oct-2007	8-Jan-2008	0.2	\$4	n/a	\$4
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of implementing procedures to ensure the required oxygenated fuel content is maintained from the investigation date to the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$4

Compliance History

Customer/Respondent/Owner-Operator:	CN600893531	Ysleta Independent School District	Classification: AVERAGE	Rating: 3.22
Regulated Entity:	RN102304086	YSLETA ISD	Classification: AVERAGE	Site Rating: 4.29
ID Number(s):	AIR NEW SOURCE PERMITS PETROLEUM STORAGE TANK REGISTRATION		ACCOUNT NUMBER REGISTRATION	EE1018R 56008
Location:	7944 YERMOLAND DR, EL PASO, TX, 79907		Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 06 - EL PASO			
Date Compliance History Prepared:	January 08, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 08, 2003 to January 08, 2008			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Miriam Hall Phone: (512) 239-1044

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 11/02/2003 ADMINORDER 2003-0541-AIR-E
- Classification: Moderate
- Citation: 30 TAC Chapter 114, SubChapter D 114.100
5C THC Chapter 382, SubChapter A 382.085(b)
- Description: Failure to ensure that fuel dispensed during the control period of October 1, 2002 to March 31, 2003 had the minimum oxygen content of 2.7%.
- B. Any criminal convictions of the state of Texas and the federal government.
- N/A
- C. Chronic excessive emissions events.
- N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|----|------------|----------|
| 1 | 05/23/2003 | (29975) |
| 2 | 10/20/2003 | (252248) |
| 3 | 07/27/2004 | (284331) |
| 4 | 06/20/2005 | (379766) |
| 5 | 05/31/2006 | (465108) |
| 6 | 06/13/2006 | (457860) |
| 7 | 07/18/2006 | (484677) |
| 8 | 11/14/2006 | (517344) |
| 9 | 05/01/2007 | (558633) |
| 10 | 06/28/2007 | (557874) |
| 11 | 07/09/2007 | (565162) |
| 12 | 12/05/2007 | (609033) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 06/24/2005 (379766)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)
- Description: Failed to verify proper operation of the stage II equipment at least once every twelve months.
- Date: 06/13/2006 (457860)
- Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.51(b)(2)(C)
Description: Failure to ensure that the UST system was equipped with overfill prevention equipment.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)
Description: Failure to provide the following records at the time of the investigation: 1) verification of the presence of overfill prevention for the UST system, 2) annual line tightness test results, and 3) line leak detector annual test results.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)
Description: Failure to ensure that USTs were numbered according to the Registration Form.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)
Description: Failure to ensure that shear valves were anchored for the pressurized piping within the dispensers.

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
YSLETA INDEPENDENT SCHOOL
DISTRICT
RN102304086**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0066-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ysleta Independent School District ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a gasoline dispensing station at 7944 Yermoland Drive in El Paso, El Paso County, Texas (the "Site").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 11, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand One Hundred Forty Dollars (\$1,140) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid Nine Hundred Twelve Dollars (\$912) of the administrative penalty and Two Hundred Twenty-Eight Dollars (\$228) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on January 8, 2008, test samples indicated that the Respondent's gasoline was in compliance with the minimum oxygen requirement.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have failed to comply with the minimum oxygen content of 2.7% by weight of gasoline during the control period of October 1 through March 31, in violation of 30 TEX. ADMIN. CODE § 114.100(a) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 11, 2007. Specifically, the unleaded sample collected from the North Tank pump no. 6 was found to be 2.3% oxygen by weight.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ysleta Independent School District, Docket No. 2008-0066-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

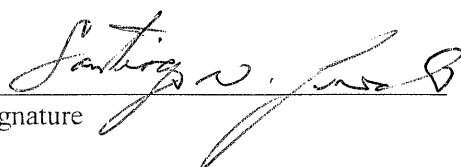
6/24/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

1-30-08
Date

Santiago N. Loreda

Name (Printed or typed)
Authorized Representative of
Ysleta Independent School District

Associate Superintendent

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

